

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

OCT 20 2014

Clerk, U S District Court
District Of Montana
Billings

JOHNNY LEE KNUDSEN,

Petitioner,

vs.

LEROY KIRKEGARD; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

CV 14-36-BLG-SPW

ORDER

Petitioner Johnny Lee Knudsen brings this action seeking to vacate his state sentence pursuant to 28 U.S.C. § 2254. United States Magistrate Judge Carolyn Ostby entered Findings and Recommendations on September 29, 2014, in which she recommends that this action be dismissed for failure to exhaust state remedies.

Pursuant to 28 U.S.C. § 636(b)(1), written objections to Judge Ostby's Findings and Recommendations were due 14 days after their filing. No objections were filed. When neither party objects, this Court must still review Judge Ostby's conclusions for clear error. Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir.2000). After reviewing the Findings and

Recommendations, this Court does not find that Judge Ostby committed clear error.

Accordingly, IT IS HEREBY ORDERED:

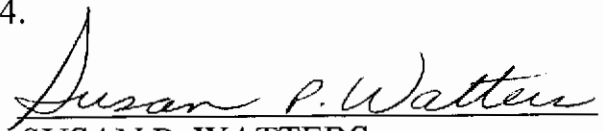
1. Judge Ostby's Findings and Recommendations (Doc. 10) are ADOPTED IN FULL.

2. The Petition (Doc. 1) is DISMISSED without prejudice for lack of exhaustion.

3. The Clerk of Court is directed to enter by separate document a judgment of dismissal.

4. A certificated of appealability is DENIED.

DATED this 20th day of October 2014.


SUSAN P. WATTERS
United States District Judge